

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KAIRDIN ALNOUBANI,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,

Defendant.

ORDER

07-cv-662-bbc

Plaintiff Kairdin Alnoubani, a prisoner at the Federal Correctional Institution in Oxford, Wisconsin, brings this case contending that defendant Federal Bureau of Prisoners violated the Administrative Procedures Act by refusing to give him a sentence reduction when it “has granted early release to other prisoners whose convictions and backgrounds are substantially similar to the plaintiff’s.” On March 3, 2008, this court dismissed plaintiff’s complaint for failure to state a claim upon which relief may be granted. In a January 15, 2009 order, the United States Court of Appeals for the Seventh Circuit partially affirmed and partially vacated this court’s dismissal of plaintiff’s complaint. The Seventh Circuit affirmed this court’s dismissal of plaintiff’s equal protection claim under section 706(2)(B) of the APA, but vacated the dismissal of his claim under section 706(2)(A) of the APA that

defendant acted in an “arbitrary and capricious” manner by relying on 28 C.F.R. § 550.58 to deny him early release, stating that “it was premature for the district court to dismiss this claim.” Accordingly, I will grant plaintiff leave to proceed on this claim.

Under Fed. R. Civ. P. 4(i), service on a federal agency is accomplished by sending copies of the summons and complaint by registered or certified mail to the agency, the civil process clerk at the United States attorney’s office in the relevant judicial district and the Attorney General of the United States. For the sake of expediency, I will send a summons to defendant, the local United States Attorney and the United States Attorney General via certified mail, along with a copy of petitioner's complaint and this order. Petitioner should not attempt to complete service on his own behalf.

ORDER

IT IS ORDERED that:

1. Pursuant to the January 15, 2009 order of the United States Court of Appeals for the Seventh Circuit in this case, plaintiff Kairdin Alnoubani is GRANTED leave to proceed with respect to his claim under section 706(2)(A) of the Administrative Procedures Act that defendant Federal Bureau of Prisoners acted in an “arbitrary and capricious” manner by relying on 28 C.F.R. § 550.58 to deny him early release.

2. For the remainder of this lawsuit, plaintiff must send defendant a copy of every

paper or document that he files with the court. Once plaintiff has learned what lawyer will be representing defendant, he should serve the lawyer directly rather than defendant. The court will disregard any documents submitted by plaintiff unless plaintiff shows on the court's copy that he has sent a copy to defendant or to defendant's attorney.

3. Plaintiff should keep a copy of all documents for his own files. If plaintiff does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents.

Entered this 12th day of March, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge